

AMENDED IN SENATE JULY 2, 2003

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY APRIL 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 396

Introduced by Assembly Member Harman
(Coauthors: Senators Hollingsworth and Morrow)

February 14, 2003

An act to repeal and add Article 3 (commencing with Section 1570) of Chapter 5 of Division 2 of, the Fish and Game Code, relating to wildlife, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 396, as amended, Harman. Shared Habitat Alliance for Recreational Enhancement Program.

(1) Existing law authorizes the Department of Fish and Game to contract with the owners or lessees of land for the establishment of cooperative hunting areas.

This bill would repeal that provision and instead would require the department, in partnership with nonprofit conservation groups and other interested nongovernmental organizations, to establish the Shared Habitat Alliance for Recreational Enhancement Program, to encourage private landowners to voluntarily make their land available to the public for wildlife-dependent recreational activities, as defined. The bill would authorize the department to enter into *voluntary* agreements with private landowners to make their land available for public use. The bill would prohibit General Fund money from being used for the program,

but would authorize, among other things, the use of user fees or hunting license or stamp sales for this purpose. The bill would authorize the department to require a person who wants to use land that is subject to an agreement to sign a waiver that releases the department and any nonprofit group, *governmental entity*, or organization from liability for damage or injury that arises from that person's use of the land.

This bill would authorize the department to revoke the public access privilege of any person who violates a law or regulation while on private property that is subject to an agreement and would require the department to enforce all applicable ~~trespass laws~~ *regulations* on that property. The bill would require the Fish and Game Commission to establish regulations and fees for the purposes of the bill.

(2) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department and the commission to pay all necessary expenses incurred in carrying out the Fish and Game Code, and to pay the compensation and expenses of the commissioners and employees of the commission. Unless otherwise provided, under existing law, all moneys collected under the code are deposited in the fund.

By imposing new duties on the department and the commission, and by increasing moneys deposited in the fund, the bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 3 (commencing with Section 1570) of
2 Chapter 5 of Division 2 of the Fish and Game Code is repealed.

3 SEC. 2. Article 3 (commencing with Section 1570) is added
4 to Chapter 5 of Division 2 of the Fish and Game Code, to read:

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6 Article 3. Shared Habitat Alliance for Recreational
7 Enhancement Program

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9 1570. In establishing the Shared Habitat Alliance for
10 Recreational Enhancement ("SHARE") Program, it is the intent
11 of the Legislature to encourage private landowners to voluntarily
12 make their land available to the public for wildlife-dependent
13 recreational activities. *The Legislature further encourages private*

landowners to use any funds received from the SHARE program for wildlife enhancement purposes on their property. The SHARE program shall be a collaborative effort by all participants to facilitate wildlife-dependent recreational activities on private land at minimal expense to the state. The Legislature declares that interested nongovernmental organizations are the key to developing, planning, and implementing the SHARE program.

1571. For purposes of this article, the following definitions apply:

(a) "Agreement" includes, but is not limited to, a contract, license, easement, memorandum of understanding, or lease.

(b) "Partnership" means a collaborative effort involving financial or in-kind contributions by nongovernmental organizations, the department, and other interested parties working in concert to effect the goals of the program.

(c) "Private landowner" means an owner of any possessory interest in real property that is suitable for use for wildlife-dependent recreational activities.

(d) "Program" means the SHARE program established under this article.

(e) "Wildlife-dependent recreational activities" means hunting, fishing, wildlife observation, conservation education, and related outdoor activities.

1572. (a) The department, in partnership with nonprofit conservation groups and other interested nongovernmental organizations *that seek to increase and enhance wildlife-dependent recreational opportunities*, shall work cooperatively to plan and develop a program to facilitate public access to private lands for wildlife-dependent recreational activities.

(b) Once the terms of the program have been established and approved by the partnership, ~~but not later than January 1, 2005~~, the commission shall verify that sufficient demonstration of private landowner interest has been shown to support the program. Upon that verification, in order to facilitate the implementation of the program, the commission shall adopt regulations and fees for the management and control of wildlife-dependent recreational activities on land that is subject to this article.

(c) No General Fund money shall be used for the program. Funding for the program may be derived from any of the following sources:

- (1) User fees.
- (2) Hunting license or stamp sales.
- (3) Eligible federal matching funds.
- (4) Any other means the department deems appropriate.

(d) Upon approval by the partnership, the department may spend up to 10 percent of the funds available for the program for wildlife enhancement purposes on lands subject to an agreement executed under the program.

1573. (a) The department may enter into ~~an~~ a voluntary agreement with a private landowner, including an agreement under which the private landowner is compensated by the department for public use of the land, to provide public access for wildlife-dependent recreational activities. *The department also may enter into a voluntary agreement with a private landowner to facilitate access to adjacent public land, upon approval of the governmental entity that holds title to the land. This article does not authorize a private landowner to exclude persons not participating in the SHARE program from using public land for wildlife-dependent activities.*

(b) Notwithstanding any other provision of law, ~~all~~ the department shall keep confidential and not release to the public any personal information received from a private landowner participating in the program ~~shall remain confidential and shall not be made available to the public~~, unless the director determines that release of that information is necessary for the administration of the program.

(c) Either the department or a private landowner may, in writing, modify or cancel an agreement executed under the program, at any time.

(d) In addition to any other protection or remedy under law, the protections and remedies afforded to an owner of an estate or any other interest in real property under Section 846 of the Civil Code shall apply to a private landowner participating in the program.

(e) The department may require every person who wants to use land that is subject to an agreement pursuant to subdivision (a), prior to using that land, to sign a waiver that releases the department or any ~~group or~~ private group, governmental entity, or

1 *other* organization involved in administering the program, and the
2 private landowner, from liability for any injury or damage that
3 arises from, or is connected with that person's use of the land.
4 Upon request, the department shall provide a copy of the waiver
5 to any of the parties to the waiver.

6 1574. (a) The department may revoke, for up to three years,
7 the public access privilege granted pursuant to this article, of any
8 person who violates any law or regulation while on any property
9 that is subject to an agreement under the program.

10 (b) The department shall enforce all applicable ~~trespass laws~~
11 *regulations established by the commission* on property that is
12 subject to an agreement executed under the program.

